IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 999 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHREENATHJI RICE AND PULSE MILLS & 1 - Petitioner(s)
Versus
GEB & 2 - Respondent(s)

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Appearance :
MS SAITA S RAJU for Petitioner(s) : 1,MR AY KOGJE for Petitioner(s) : 2,
MR MD PANDYA for Respondent(s) : 1 - 2.
GOVERNMENT PLEADER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 29/11/2005

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the petitioner - firm –

consumer of the respondent – Gujarat Electricity Board has challenged the legality and validity of the supplementary bill dated 8th March, 1996 of Rs.1,02,658.46 ps. as well as the decision of the Electrical Inspector, Ahmedabad, dated 24th January, 1997 in dismissing/filing the appeal submitted by the petitioner – firm submitted under Section 26(6) of the Indian Electricity Act.

2. The petitioner – firm was having electricity connection from the respondent – Board and having its consumer No.27075/0031610 and that connection was LT connection. It appears from the record that on 6th March, 1996, the Vigilance Squad of GEB visited the factory of the petitioner and made the Inspection Report and on the basis of the same, the respondent – Board issued the supplementary bill dated 8th March, 1996 for an amount of Rs.1,02,658/- on the ground that the meter was running 51% slow. It is the case of the petitioners that immediately the petitioners addressed the letter dated 9th March, 1996 to the respondents objecting the

issuance of the supplementary bill and another letter dated 16th March, 1996 was written informing the respondents that the petitioners are inclined to approach the Electrical Inspector by raising the dispute under Section 26 of the Act. It appears that the petitioners received the communication from the respondent No.3 – Electrical Inspector dated 25th March, 1996 informing the petitioners about the date on which the meter was to be tested and also asking to pay Rs.800/-towards the appeal which the petitioners paid on 25th March, 1996. It is the case of the petitioners that vide letter dated 2nd April, 1996, the petitioners submitted the written objection to the respondent No.3 and also thereafter, the petitioners came to be served with the communication/letter dated 24th January, 1997 from the Electrical Inspector – respondent No.3 informing the petitioners that the appeal has been dismissed. Being aggrieved and dissatisfied with the same, the petitioners have preferred the present Special Civil Application under Article 226 of the Constitution of India.

3.Shri Kogje, learned advocate appearing on behalf of the petitioners has vehemently submitted that the Electrical Inspector has materially erred in dismissing the appeal which was submitted under Section 26 of the Act and that too without giving an opportunity of hearing to the petitioners. He has further submitted that admittedly when the dispute was with regard to slowness of the meter as so mentioned even in the Inspection Report, the Electrical Inspector ought to have decided the same on merits and therefore, it is requested to allow the present Special Civil Application.

4.Ms. Maya Desai, learned advocate appearing on behalf of the respondents has submitted that admittedly the meter was running slow due to manufacturing defect and the wire connected were in reverse manner because of which the meter could have been running slow and it was found that the meter was running slow by 51% and therefore, the supplementary bill for an amount of Rs.1,02,658/-

is rightly issued and therefore, it is requested to dismiss the present Special Civil Application.

5. Heard the learned advocates appearing on behalf of the parties.

6. It is not in dispute and even so stated in the Inspection Report that in the Y-Phase CT Coil because of the manufacturing defect the wires connected were in reverse manner because of which the meter could have been running slow and therefore, it was the case of the GEB that the meter was running slow and according to them it was running slow by 51% and the GEB issued the supplementary bill on that basis. The petitioners objected to the same by raising the dispute under Section 26 of the Electricity Act first before the GEB and thereafter, by approaching the Electrical Inspector and the Electrical Inspector without giving any opportunity of hearing to the petitioners, straight way, dismissed the appeal by observing that as the meter was running slow due to

technical defect, the same was rectified by changing the wires and therefore, the appeal is required to be dismissed. Such approach on the part of the Electrical Inspector in not deciding the appeal on merits and dismissing the same without hearing the petitioners cannot be permitted to stand and the same is required to be quashed and set aside. Once the dispute is with regard to the slowness of the meter and the consumer approaches the Electrical Inspector, he has to test the meter and decide the same on merits and without testing the meter and deciding the dispute with regard to slowness of the meter, it can be said that the Electrical Inspector has failed to perform his statutory duties which is required to be performed under Section 26(6) of the Act. Under the circumstances, the order passed by the Electrical Inspector requires to be quashed and set aside and even the supplementary bill also, and as no fruitful purpose will be served to remand the matter after so many years as the meter was tested on 6th March, 1996 and the decision of the

Electricity Inspector is of the year 1997 as such, no affidavit-in-reply is filed on behalf of the respondents also.

7. For the reasons stated above, the petition succeeds. The supplementary bill issued by the respondent – GEB as well as the order passed by the Electricity Inspector dated 24th January, 1997 are hereby quashed and set aside. Rule is made absolute to the aforesaid extent. If the petitioners had deposited any amount pursuant to the ad-interim relief order passed by this Court, the same will be refunded to the petitioners. However, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.